

## **REMARKS**

Reconsideration of the application is respectfully requested.

### **I. Status of the Claims**

Claims 18 and 19 were previously cancelled without prejudice or disclaimer.

Claims 3-17 were previously withdrawn.

Claims 1-17 and 20-22 are pending, with claims 1-2 and 20-22 currently under examination.

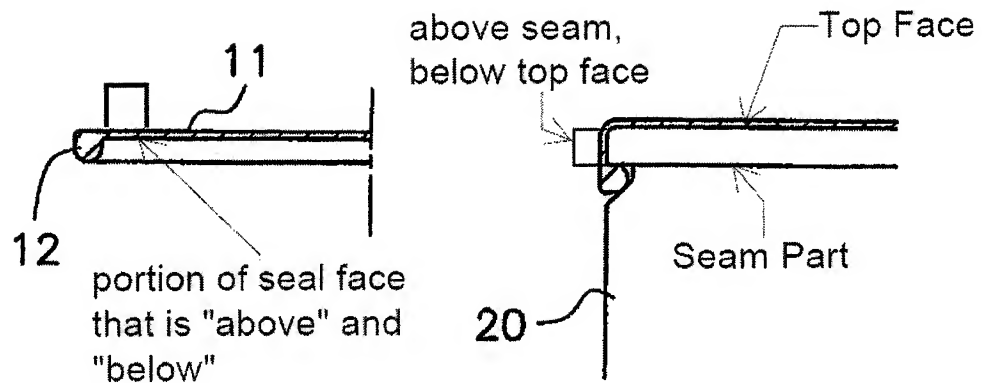
### **II. Status of the Specification and Drawings**

The Specification and Figures 2C, 4A, and 4B has been amended to identify the “top face” of the container with reference numeral 100, no new matter is added.

The Examiner objects to Specification as not reciting and the drawings as not illustrating the feature of “a portion of said seal face part contacts said container above the seam part and below the top face.” Applicants have amended the text to support what is illustrated in the figures. Figures 2C, 4A, and 4B now annotate the top face. By extension, this feature is illustrated in Figures 6(b)-6(d). One of ordinary skill in the art can now, based on the new text and reference numerals, ascertain the top face of the container in the Figures where it is not specifically annotated. Applicants respectfully request the objection be withdrawn.

### **III. Rejections under 35 U.S.C. § 112**

Claim 1 is rejected under 35 U.S.C. § 112, first paragraph. Applicants respectfully traverse. Figure 6(b)-6(d) always supported the claim element of “a portion of said seal face part contacts said container above the seam part and below the top face.” This has now, accordingly, been incorporated into the Specification and Drawings, as noted by the Examiner. A portion of Figure 6(b) is annotated below to show the support. Since the seal face 11 integrates directly into outer perimeter 12, it is the portion of the seal face that must stretch to cover the claimed area. This can be seen in the annotated Figure 6(b) below.

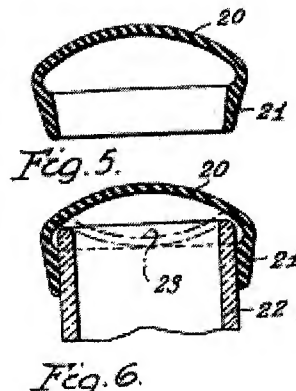
**Fig. 6(b)**

Thus, in the originally filed application there is disclosure of a portion the seal face part contacting the container “above the seam part and below the top face.” Applicants submit that the Specification complies with both the written description and the enablement requirements and respectfully request that the rejections be withdrawn.

#### **IV. Rejections under 35 U.S.C. §§ 102 and 103**

Claims 1, 20, and 22 are rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 2,266,270 to Roth. Claims 2 and 21 are rejected under 35 U.S.C. § 103(a) as unpatentable over Roth in view of the Examiner’s statement of ordinary skill in the art. Applicants respectfully traverse.

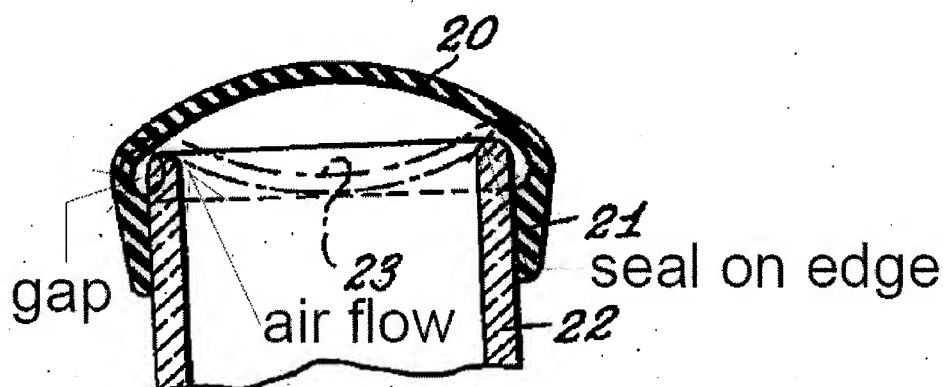
Claim 1 recites that “wherein a portion of said seal face part contacts said container above the seam part and below the top face” and the Examiner contends that Roth Figure 5 is “capable” of performing said limitation. Applicants respectfully disagree. Roth is formed of a crowned disk 20 and a tapered sealing lip 21. The sealing lip is deformed to seal to the container 22 and the crowned disk 20 does not contact the sides of the container. *See*, column 2, lines 27-44, and also Figures 5 and 6 below:



The crowned disk cannot contact the sides or it would lose the “crowned” feature when stretched, which would defeat Roth’s stated purpose of “the crowned disk 20 may be deflected to eliminate the presence of air...” Roth, column 2, lines 34-35.

Additionally, none of Roth’s other embodiments disclose a portion of a sealing face part contacting the container above the seam part and below the top face. Thus, Roth does not teach or suggest all of the elements of claim 1.

Furthermore, just the shape of Roth’s embodiment prevents it from contacting “above the seam part and below the top face.” The gap, circled in Fig. 6 below, provides the necessary “give” to allow the crowned disk 20 to deflect inwards and use the edge of the container as a fulcrum to allow for the discharge of air. One of ordinary skill in the art realizes that as the disk 20 is deflected, the air will be forced from the middle of the container 22 to the ends and the air will gather near the gaps. As the disk 20 is forced lower, the disk will contact the edge, making a seal and trapping the air between the container wall and the disk in the gap. More pressure on the disk 20 will cause the lip 21 to move from contact with the wall, as the edge is used as a hinge point, to allow the air to release outside the container 22. This “burping” effect to release the air cannot be accomplished without the gap along the container wall as illustrated. Thus, Roth is not capable of the claimed feature, either explicitly or inherently.



Claims 2 and 20-22 depend from claim 1 and are allowable based on the arguments above, in that Roth does not teach or suggest all of the elements of the claims.

Applicant respectfully requests that the rejections be withdrawn.

**CONCLUSION**

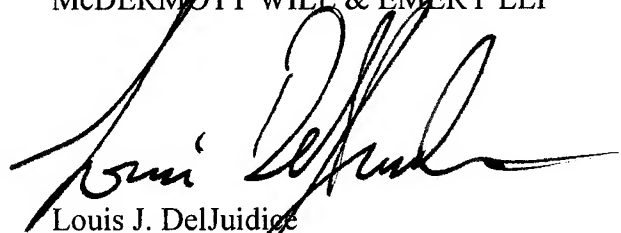
In light of the foregoing, it is believed the application is in condition for allowance and such allowance is earnestly solicited.

If the Examiner believes that there are any remaining issues which can be resolved by a Supplemental Amendment or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 associated with Customer No. 20277 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

A handwritten signature in black ink, appearing to read 'Louis J. DelJuidice', is written over the printed name.

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